

FIRST REGULAR SESSION

# SENATE BILL NO. 107

95TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR GREEN.

Pre-filed December 3, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0401S.011

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## AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof two new sections relating to a tax deduction for higher education expenses.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 143.121, RSMo, is repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 143.121 and 143.1030, to read as  
3 follows:

143.121. 1. The Missouri adjusted gross income of a resident individual  
2 shall be the taxpayer's federal adjusted gross income subject to the modifications  
3 in this section.

4 2. There shall be added to the taxpayer's federal adjusted gross income:

5 (1) The amount of any federal income tax refund received for a prior year  
6 which resulted in a Missouri income tax benefit;

7 (2) Interest on certain governmental obligations excluded from federal  
8 gross income by Section 103 of the Internal Revenue Code. The previous sentence  
9 shall not apply to interest on obligations of the state of Missouri or any of its  
10 political subdivisions or authorities and shall not apply to the interest described  
11 in subdivision (1) of subsection 3 of this section. The amount added pursuant to  
12 this subdivision shall be reduced by the amounts applicable to such interest that  
13 would have been deductible in computing the taxable income of the taxpayer  
14 except only for the application of Section 265 of the Internal Revenue Code. The  
15 reduction shall only be made if it is at least five hundred dollars;

16 (3) The amount of any deduction that is included in the computation of  
17 federal taxable income pursuant to Section 168 of the Internal Revenue Code as  
18 amended by the Job Creation and Worker Assistance Act of 2002 to the extent the

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 amount deducted relates to property purchased on or after July 1, 2002, but  
20 before July 1, 2003, and to the extent the amount deducted exceeds the amount  
21 that would have been deductible pursuant to Section 168 of the Internal Revenue  
22 Code of 1986 as in effect on January 1, 2002;

23 (4) The amount of any deduction that is included in the computation of  
24 federal taxable income for net operating loss allowed by Section 172 of the  
25 Internal Revenue Code of 1986, as amended, other than the deduction allowed by  
26 Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as  
27 amended, for a net operating loss the taxpayer claims in the tax year in which the  
28 net operating loss occurred or carries forward for a period of more than twenty  
29 years and carries backward for more than two years. Any amount of net  
30 operating loss taken against federal taxable income but disallowed for Missouri  
31 income tax purposes pursuant to this subdivision after June 18, 2002, may be  
32 carried forward and taken against any income on the Missouri income tax return  
33 for a period of not more than twenty years from the year of the initial loss; and

34 (5) For nonresident individuals in all taxable years ending on or after  
35 December 31, 2006, the amount of any property taxes paid to another state or a  
36 political subdivision of another state for which a deduction was allowed on such  
37 nonresident's federal return in the taxable year unless such state, political  
38 subdivision of a state, or the District of Columbia allows a subtraction from  
39 income for property taxes paid to this state for purposes of calculating income for  
40 the income tax for such state, political subdivision of a state, or the District of  
41 Columbia.

42 3. There shall be subtracted from the taxpayer's federal adjusted gross  
43 income the following amounts to the extent included in federal adjusted gross  
44 income:

45 (1) Interest or dividends on obligations of the United States and its  
46 territories and possessions or of any authority, commission or instrumentality of  
47 the United States to the extent exempt from Missouri income taxes pursuant to  
48 the laws of the United States. The amount subtracted pursuant to this  
49 subdivision shall be reduced by any interest on indebtedness incurred to carry the  
50 described obligations or securities and by any expenses incurred in the production  
51 of interest or dividend income described in this subdivision. The reduction in the  
52 previous sentence shall only apply to the extent that such expenses including  
53 amortizable bond premiums are deducted in determining the taxpayer's federal  
54 adjusted gross income or included in the taxpayer's Missouri itemized

55 deduction. The reduction shall only be made if the expenses total at least five  
56 hundred dollars;

57 (2) The portion of any gain, from the sale or other disposition of property  
58 having a higher adjusted basis to the taxpayer for Missouri income tax purposes  
59 than for federal income tax purposes on December 31, 1972, that does not exceed  
60 such difference in basis. If a gain is considered a long-term capital gain for  
61 federal income tax purposes, the modification shall be limited to one-half of such  
62 portion of the gain;

63 (3) The amount necessary to prevent the taxation pursuant to this chapter  
64 of any annuity or other amount of income or gain which was properly included in  
65 income or gain and was taxed pursuant to the laws of Missouri for a taxable year  
66 prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose  
67 death the taxpayer acquired the right to receive the income or gain, or to a trust  
68 or estate from which the taxpayer received the income or gain;

69 (4) Accumulation distributions received by a taxpayer as a beneficiary of  
70 a trust to the extent that the same are included in federal adjusted gross income;

71 (5) The amount of any state income tax refund for a prior year which was  
72 included in the federal adjusted gross income;

73 (6) The portion of capital gain specified in section 135.357, RSMo, that  
74 would otherwise be included in federal adjusted gross income;

75 (7) The amount that would have been deducted in the computation of  
76 federal taxable income pursuant to Section 168 of the Internal Revenue Code as  
77 in effect on January 1, 2002, to the extent that amount relates to property  
78 purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that  
79 amount exceeds the amount actually deducted pursuant to Section 168 of the  
80 Internal Revenue Code as amended by the Job Creation and Worker Assistance  
81 Act of 2002;

82 (8) For all tax years beginning on or after January 1, 2005, the amount  
83 of any income received for military service while the taxpayer serves in a combat  
84 zone which is included in federal adjusted gross income and not otherwise  
85 excluded therefrom. As used in this section, "combat zone" means any area which  
86 the President of the United States by Executive Order designates as an area in  
87 which armed forces of the United States are or have engaged in combat. Service  
88 is performed in a combat zone only if performed on or after the date designated  
89 by the President by Executive Order as the date of the commencing of combat  
90 activities in such zone, and on or before the date designated by the President by

91 Executive Order as the date of the termination of combatant activities in such  
92 zone; [and]

93 (9) For all tax years ending on or after July 1, 2002, with respect to  
94 qualified property that is sold or otherwise disposed of during a taxable year by  
95 a taxpayer and for which an addition modification was made under subdivision  
96 (3) of subsection 2 of this section, the amount by which addition modification  
97 made under subdivision (3) of subsection 2 of this section on qualified property  
98 has not been recovered through the additional subtractions provided in  
99 subdivision (7) of this subsection; **and**

100 **(10) The amount of any qualified higher education expenses**  
101 **determined under section 143.1030.**

102 4. There shall be added to or subtracted from the taxpayer's federal  
103 adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment  
104 provided in section 143.351.

105 5. There shall be added to or subtracted from the taxpayer's federal  
106 adjusted gross income the modifications provided in section 143.411.

107 6. In addition to the modifications to a taxpayer's federal adjusted gross  
108 income in this section, to calculate Missouri adjusted gross income there shall be  
109 subtracted from the taxpayer's federal adjusted gross income any gain recognized  
110 pursuant to Section 1033 of the Internal Revenue Code of 1986, as amended,  
111 arising from compulsory or involuntary conversion of property as a result of  
112 condemnation or the imminence thereof.

113 7. (1) As used in this subsection, "qualified health insurance premium"  
114 means the amount paid during the tax year by such taxpayer for any insurance  
115 policy primarily providing health care coverage for the taxpayer, the taxpayer's  
116 spouse, or the taxpayer's dependents.

117 (2) In addition to the subtractions in subsection 3 of this section, one  
118 hundred percent of the amount of qualified health insurance premiums shall be  
119 subtracted from the taxpayer's federal adjusted gross income to the extent the  
120 amount paid for such premiums is included in federal taxable income. The  
121 taxpayer shall provide the department of revenue with proof of the amount of  
122 qualified health insurance premiums paid.

123 8. (1) Beginning January 1, 2009, in addition to the subtractions provided  
124 in this section, one hundred percent of the cost incurred by a taxpayer for a home  
125 energy audit conducted by an entity certified by the department of natural  
126 resources under section 640.153, RSMo, or the implementation of any energy

127 efficiency recommendations made in such an audit shall be subtracted from the  
128 taxpayer's federal adjusted gross income to the extent the amount paid for any  
129 such activity is included in federal taxable income. The taxpayer shall provide  
130 the department of revenue with a summary of any recommendations made in a  
131 qualified home energy audit, the name and certification number of the qualified  
132 home energy auditor who conducted the audit, and proof of the amount paid for  
133 any activities under this subsection for which a deduction is claimed. The  
134 taxpayer shall also provide a copy of the summary of any recommendations made  
135 in a qualified home energy audit to the department of natural resources.

136 (2) At no time shall a deduction claimed under this subsection by an  
137 individual taxpayer or taxpayers filing combined returns exceed one thousand  
138 dollars per year or cumulatively exceed two thousand dollars per taxpayer or  
139 taxpayers filing combined returns.

140 (3) Any deduction claimed under this subsection shall be claimed for the  
141 tax year in which the qualified home energy audit was conducted or in which the  
142 implementation of the energy efficiency recommendations occurred. If  
143 implementation of the energy efficiency recommendations occurred during more  
144 than one year, the deduction may be claimed in more than one year, subject to the  
145 limitations provided under subdivision (2) of this subsection.

146 (4) A deduction shall not be claimed for any otherwise eligible activity  
147 under this subsection if such activity qualified for and received any rebate or  
148 other incentive through a state-sponsored energy program or through an electric  
149 corporation, gas corporation, electric cooperative, or municipally owned utility.

150 9. The provisions of subsection 8 of this section shall expire on December  
151 31, 2013.

**143.1030. 1. This section shall be known and may be cited as the**  
**2 "Higher Education Expenses Deduction".**

**3 2. As used in this section, the following terms mean:**

**4 (1) "Department", the department of revenue;**

**5 (2) "Director", the director of the department of revenue;**

**6 (3) "Higher education institution", an institution that meets the**  
**7 standards for accreditation as determined by either the North Central**  
**8 Association of Colleges and Secondary Schools or by other accrediting**  
**9 bodies recognized by the United States Department of Education or by**  
**10 utilizing accreditation standards applicable to non-degree granting**  
**11 institutions as established by the coordinating board for higher**

12 education;

13 (4) "Tax liability", the tax due under chapter 143, other than  
14 taxes withheld under sections 143.191 to 143.265; and

15 (5) "Taxpayer", any student filing income tax returns or a  
16 taxpayer who claims a student as a dependent.

17 3. If any taxpayer with a federal adjusted gross income of less  
18 than two hundred thousand dollars incurs tuition or fee expenses for  
19 enrollment of at least half time at a higher education institution, such  
20 taxpayer shall subtract from such taxpayer's federal adjusted gross  
21 income an amount equal to one hundred percent of such costs the  
22 taxpayer paid during the taxable year.

23 4. The department may promulgate such rules or regulations as  
24 are necessary to administer the provisions of this section. Any rule or  
25 portion of a rule, as that term is defined in section 536.010, RSMo, that  
26 is created under the authority delegated in this section shall become  
27 effective only if it complies with and is subject to all of the provisions  
28 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
29 section and chapter 536, RSMo, are nonseverable and if any of the  
30 powers vested with the general assembly pursuant to chapter 536,  
31 RSMo, to review, to delay the effective date, or to disapprove and annul  
32 a rule are subsequently held unconstitutional, then the grant of  
33 rulemaking authority and any rule proposed or adopted after August  
34 28, 2009, shall be invalid and void.

35 5. The provisions of this section shall apply to all tax years  
36 beginning on or after January 1, 2010.

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